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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,045	04/14/2004	Cong Thanh Dinh	T&B 1788	6076

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EXAMINER

ESTRADA, ANGEL R

ART UNIT	PAPER NUMBER
2831	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/824,045	Applicant(s) DINH, CONG THANH	
	Examiner Angel R. Estrada	Art Unit 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 7 and 16-20 is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bardaville(US 5,187,853).

Regarding claim 8, Bardaville discloses an electrical closure apparatus (78) for installing in a wall, the electrical closure apparatus (78) comprising a recessed portion for installing within the wall (see figures 6-8); a front edge (122) coupled to the recessed portion (see figure 7), the edge (122) for abutting the wall when the electrical closure apparatus (78) is installed; and at least one impression member (158, 160) secured to the electrical closure apparatus (78) such that a two-dimensional outline is made, at least partially of the recessed portion when the impression member (158, 160) is pressed against the wall (column 10 lines 33-58 and column 11 lines 13-41).

Regarding claim 9, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158, 160) is a point (see figure 10 or column 7 lines 17-21).

Regarding claim 10, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158, 160) is a raised edge (see figure 10).

Regarding claim 11, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158, 160) is a geometric shape (see figure 10). Furthermore, where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Regarding claim 12, Bardaville discloses the electrical closure apparatus (78) wherein the recessed portion (see figure 7) includes a wall attachment means (122 or 154) coupled thereto (see figures 6-8).

Regarding claim 13, Bardaville discloses the electrical closure apparatus (78) wherein the recessed portion (see figures 6-8) includes, at least partially, the wall attachment means (122 or 154).

Regarding claim 14, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158,160) extends from and is integrally formed with the recessed portion (see figure 7 or 9).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bardaville (US 5,187,853).

Regarding claim 15, Bardaville discloses the claimed invention except for the impression member (158,160) being integrally formed on the front face. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Bardaville's electrical closure apparatus with the impression member being integrally formed on the front face, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

Allowable Subject Matter

3. Claims 1-5, 7 and 16-20 are allowed.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 1-5, 7 and 16-20 are

Regarding claims 1-5 and 7, the prior art does not teach or fairly suggest in combination with the other claimed limitations at least one impression member spaced from the rear face such that an outline is made, at least partially, of at least two of the corners when the rear face is pressed against the wall.

Regarding claims 16-20, the prior art does not teach or fairly suggest in combination with the other claimed limitations of an electrical closure apparatus comprising four bounding side walls; a recessed portion formed by the four side walls and the rear wall for installing within the wall and at least one impression member

disposed on the electrical closure apparatus for making an outline, at least partially, of the recessed portion on the wall when pressed there against.

These limitations were found in claims 1-5, 7 and 16-20, and are neither disclosed nor taught by the prior art of record, alone or in combination.

Response to Arguments

4. Applicant's arguments filed on August 4, 2005 with respect to claim 8-15 have been fully considered but they are not persuasive.

In response to the applicant's argument that Bardaville (US 5,187,853) lacks a two-dimensional outline made of the recessed portion as recited in claims 8-15, the Examiner point out that Bardaville clearly discloses that the projection members (158, 160) serves as a marker to make a two dimensional outline of the recess portion of the electrical closure apparatus when the impression members is placed against the wall (column 10 lines 33-59 and column 11 lines 13-41).

Conclusion

5. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 14, 2005


Angel R. Estrada
Patent Examiner
Art Unit: 2831